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ABSTRACT

This volume examines ten communities with histories of lengthy desegregation litigation in order to gain insight into the perceived legal adequacy and practical effectiveness of various desegregation strategies from the point of view of the Federal courts. A conceptual model of the judicial review of desegregation plans is given in diagram form with accompanying text. Reviews of each community are included under two major categories: (1) those concerned with pupil or staff desegregation; and (2) those which focus on non-reassignment or ancillary measures to achieve desegregation and remediation of past discrimination. Under each category, a number of specific strategies are identified, defined, and analyzed according to their legal adequacy and effectiveness in the selected communities. A summary of an in-depth analysis of two communities (Boston, Massachusetts, and Denver, Colorado), which is said to provide understanding of the logic used by the courts and to illustrate the interaction among educational benefits, demographic factors, and equity considerations, is provided in the appendix. (Author/ML)

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ASSESSMENT OF CURRENT KNOWLEDGE ABOUT THE EFFECTIVENESS OF SCHOOL DESEGREGATION STRATEGIES

VOLUME VII

THE COURTS AND DESEGREGATION STRATEGIES: TEN KEY DECISIONS

Charles B. Vergon*

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Center for Education and Human Development Policy
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THE COURTS AND DESEGREGATION STRATEGIES:

TEN KEY DECISIONS

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Preface

This volume is one of nine resulting from the Assessment of Effective Desegregation Strategies Project (hereafter referred to as the Project). The Project was financed with funds provided by the Office for Civil Rights (OCR) of the U.S. Department of Education and administered by the National Institute of Education (NIE).*

The primary purpose of the Project has been to identify what is known about strategies that are effective in desegregating school systems. A secondary objective of the Project is to facilitate further research on this topic. The Project will be successful if policy makers and practitioners use its findings, and the subsequent knowledge from research to which the project contributes, to more effectively racially desegregate the nation's schools.

There are several potential goals of desegregation and these may be the terms in which effectiveness is measured. This Project defined an effective strategy in one of four general ways:

1. The acceptance and support of desegregation by parents and the community.
2. The reduction of racial isolation and the avoidance of segregation among public schools (white flight and nonentry) and within schools (unnecessary ability grouping, push-outs, etc.).
3. The development of better race relations among students.
4. The improvement, or at least the continuance, of academic achievement.

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* This report was prepared under Contract No. NIE-R-79-0034.

The Project involved several different but interrelated activities:

1. A comprehensive review of the empirical research (see Volume V).
2. A review of the qualitative literature on school desegregation, including studies surveying the opinions of practitioners and policy makers (see Volume VI).
3. An analysis of ten key court decisions.
4. Interviews with local and national experts on school desegregation (see Volume VI).
5. A synthesis of the information gathered in activities 1-4 (see Volume I).
6. A review of actions by state governments and interviews with state officials (see Volume VIII).
7. An agenda for future research to determine the effectiveness of school desegregation strategies (see Volume II).
8. The design of a multicommunity study to determine the factors that account for the effectiveness of school desegregation (see Volume III).
9. A guide to resources that those charged with implementing desegregation might find helpful (see Volume IV).
10. A comprehensive bibliography of books, articles, papers, documents and reports that deal with desegregation strategies related to the four general goals outlined above (see Volume IX).

These several activities were conducted by a team of researchers from several universities and organizations. The Project, which was managed by Willis D. Hawley with the assistance of William Trent and Marilyn Zlotnik, was initially based at Duke University's Institute of Policy Sciences and Public Affairs. Midway during its 19 month life, the Project was moved

to Vanderbilt University's Institute for Public Policy Studies. The members of the Project team were:*

Carol Andersen	Education Commission of the States
C. Anthony Broh	Duke University
Robert L. Crain	Johns Hopkins University, The Rand Corporation
Ricardo Fernandez	University of Wisconsin-Milwaukee
Willis D. Hawley	Vanderbilt University
Rita E. Mahard	University of Michigan, The Rand Corporation
John B. McConahay	Duke University
Christine H. Rossell	Boston University
William Sampson	Northwestern University
Janet W. Schofield	University of Pittsburgh
Mark A. Smylie	Vanderbilt University
Rachel Tompkins	Citizen's Council for Ohio Schools
William Trent	Vanderbilt University
Charles B. Vergon	University of Michigan, Ann Arbor
Meyer Weinberg	University of Massachusetts, Amherst
Ben Williams	Education Commission of the States

The conclusions reached in the several volumes are those of the named authors. Neither the NIE or OCR necessarily supports the findings of this Project.

* Affiliations are for the period during which these persons participated in the study.

THE COURTS AND DESEGREGATION STRATEGIES:

TEN KEY DECISIONS

Chuck Vergon

Introduction

Although primary responsibility for coming forward with a desegregation plan rests with local school authorities, federal courts are ultimately responsible for ensuring the dismantling of dual school systems. Consequently they are charged with evaluating the adequacy of plans which may be proposed and retaining jurisdiction during the period of transition to see that it is effectively accomplished.

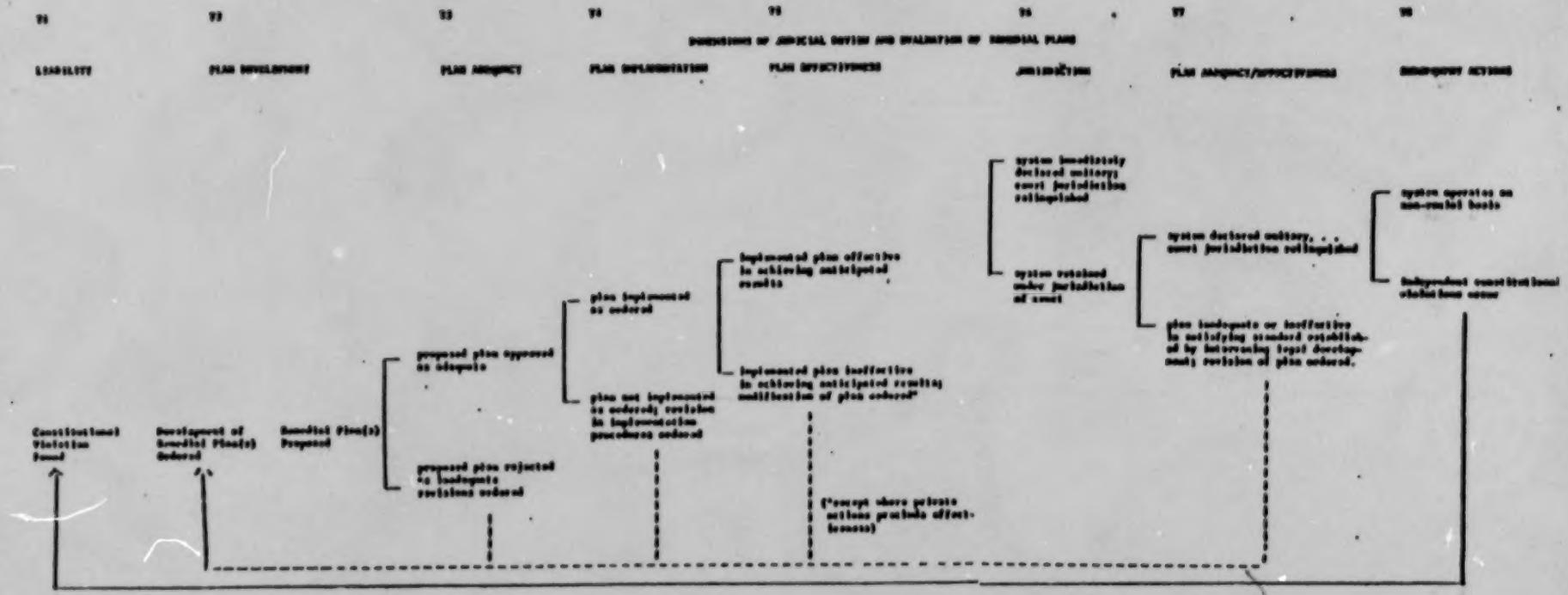
Because the transition to a unitary school system may require the resolution of a variety of local problems and conditions, there can be no uniform desegregation plan for all the communities in the nation, region of the country or even a single state. A technique or strategy that may work well in one locality may not in another due to fundamental differences in the community context or the manner in which the strategy is applied. Notwithstanding the significance of local differences, this section examines ten communities with histories of lengthy desegregation litigation in an attempt to gain some insights into the perceived legal adequacy and practical effectiveness of various desegregation strategies from the point of view of federal courts.

Before proceeding further, however, it is necessary to review in cursory fashion the contexts in which federal courts may be performing their oversight responsibility and the nature of their inquiry at different time frames in the desegregation process. A conceptual model of the judicial review of desegregation plans has been devised and diagramed as Figure 1 to aid the reader.

Begining at the reader's left, is the liability phase of judicial activity (Time 1) during which stage a constitutional violation may be found. If unlawful segregation is proven, the court next orders the development of remedial plans and receives those which are proposed (Time 2).

In the next major stage (Time 3), the court begins its review and evaluation process, attempting to ascertain whether the proposed plan is legally adequate and promises to work based on representations of the parties (Perceived Adequacy). During the initial stage of plan implementation (Time 4), the court may be engaged in evaluating, on its own initiative or at the behest of parties, the extent to which the plan has been implemented as ordered (Plan Implementation).

JUDICIAL REVIEW OF THE SCHOOL DESEGREGATION PROCESS


DIMENSIONS OF JUDICIAL DUTIES AND EVALUATION OF REMEDIAL PLANS
LIABILITY
PLAN DEVELOPMENT
PLAN ADEQUACY
PLAN IMPLEMENTATION
PLAN EFFECTIVENESS
JURISDICTION
PLAN ADEQUACY/INEFFECTIVENESS
UNITARY STATUS
Constitutional Violation Found
Development of Remedial Plan(s) Ordered
Remedial Plan(s) Proposed
proposed plan approved as adequate
proposed plan rejected as inadequate; revisions ordered
plan implemented as ordered
plan not implemented as ordered; revision in implementation procedures ordered
implemented plan effective in achieving anticipated results
implemented plan ineffective in achieving anticipated results; modification of plan ordered*
(*except where private actions preclude effectiveness)
system immediately declared unitary; court jurisdiction relinquished
system retained under jurisdiction of court
system declared unitary, . . . court jurisdiction relinquished
plan inadequate or ineffective in satisfying standard established by intervening legal development; revision of plan ordered.
system operates on non-racial basis
independent constitutional violations occur

Simultaneously, or somewhat later (Time 5), the focus of the court's continuing jurisdiction shifts to the question of whether or not the plan which was originally perceived as adequate and now assumedly has been implemented as ordered, is practically effective in attaining the anticipated results (Plan Effectiveness). While jurisdiction is relinquished when the plan effectuates the transition to a unitary system, courts differ in terms of when and how rapidly this process is accomplished (Time 6).

Additionally, at any time during this process, courts may be called upon to reexamine the plan's legal adequacy and practical effectiveness in light of an intervening legal development modifying the obligations of school authorities or the authority of courts in desegregation matters. While such a legal development may occur at any time, it is represented at Time 7 in Figure 1. Finally, (Time 8) once unitary status has been achieved as measured by then prevailing legal standards, the district is freed from court supervision as well as discrimination, with the process reinitiated only upon a finding of the reoccurence of unconstitutional conduct or inaction on the part of state or local school district authorities.

Ten communities have been tracked through this process by means of a review of reported federal court decisions. The communities were selected because of their lengthy history of litigation, as recounted in over 160 published opinions (Table 2) as well as to ensure a district from each of the ten numbered federal appellate jurisdictions. While not representative of school districts which have desegregated nationally, the universe of districts does include ones of varying size and regional or geographical locality, differing dates of initial implementation, and plans involving multi as well as single district approaches to desegregation. Finally, special consideration was also given to districts targeted for inclusion in other parts of the overall NIE/OCR study. The communities include:

1st Cir - Boston (Btn)
2nd Cir - Buffalo (Bf.)
3rd Cir - Wilmington - New Castle Co. (Wlm)
4th Cir - Charlotte (Chl)
5th Cir - Tampa-Hillsborough Co. (Tmp)
6th Cir - Detroit (Dtr)
7th Cir - Milwaukee (Mlk)
8th Cir - Minneapolis (Mnp)
9th Cir - Pasadena (Pdn)
10th Cir - Denver (Dnv)

FIGURE 2

Number of Reported Desegregation Decisions
Selected Communities, 1954-1980

School Districts	Reported Federal Decisions
Boston	19
Buffalo	9
Charlotte	18
Denver	15
Detroit	36
Hillsborough County	3
Milwaukee	13
Minneapolis	3
New Castle County	34
Pasadena	14

In-depth analysis of court actions in two communities were conducted to better understand the logic used by the courts and to illustrate the interaction among considerations of educational benefits, demographic factors and equity. The results of these more detailed studies, which are summarized in the Appendix, have informed the conclusions reached in this report.

Several limitations associated with this research should be acknowledged. Five are of particular significance:

1. The analysis is based only on reported opinions involving the respective communities;

2. The reported opinions differ dramatically in the extent to which plans or portions of plans are described and the precision of the language employed;

3. The omission of discussion of a set of strategies associated with any component of a plan or any particular strategy relative to any community should not be assumed to establish that the court did not approve or even order such, opinions frequently discuss only certain aspects of plans advanced, specifically those portions legally contested or at issue. This limitation is particularly problematic in those instances where a court blanketly adopts, with little or no modification, a plan submitted by the district or other party.

4. The relatively infrequent use of a particular strategy may not signal its ineffectiveness in achieving desegregation or associated goals, but rather legal constraints which govern courts in the development of equitable remedies.

5. Because like strategies may be applied differently even in the same community, the rejection of a particular approach should not be automatically construed to reflect negativity on the effectiveness of the strategy itself.

To this date, however, demonstrating what the racial composition of buildings would have been but for unlawful conduct has proven difficult for school officials (see e.g., Penick; Dayton II, 443 U.S.526, 1979; Bradley v. Milliken, 620 F.2d 1143, 1980; and Armstrong v. O'Connell, 463 F.Supp. 1295, 1979). Consequently, in practice, where racially identifiable buildings persist, school districts are generally required to utilize, and courts to order the utilization of, the most effective desegregation technique reasonably available. (Green; Davis v. Board of School Commissioners of Mobile, 402 U.S. 33, 1971).

This should not be construed, however, to mean that courts are guided exclusively by effectiveness in choosing among alternative remedies. A variety of additional factors, are taken into account with substantial regularity. These include practical considerations such as the efficiency and economy of different reassignment techniques; the capacity, condition and location of facilities; and transportation routes, times and distances. Educational factors also influence the selection of remedial plans, such as the extent to which particular reassignment techniques facilitate curriculum continuity and maintain continuity in peer social relationships. Equitable principles are also prominently considered in evaluating proposed plans to ensure not only that they are reasonable in relation to the objective sought, but also that they do not place an unnecessarily disproportionate burden on any one group or segment of the community. Additionally, to varying degrees, courts concern themselves with the interaction between housing patterns, residential stability and effective desegregation, although most expressly acknowledge that the potential for white flight or its acceleration is not an appropriate consideration in determining whether the racial identifiability of all buildings will be eliminated and the constitutional rights of minorities satisfied.

As might be anticipated, certain reassignment strategies tend to be more practical, educationally advantageous, equitable, or stabilizing than others. Also not unexpectedly, seldom do these values tend to converge and be optimally present in any one strategy or set of compatible strategies. School district officials, desegregation planners, and ultimately courts are required to strike an appropriate balance among these values, while at the same time achieving the greatest possible degree of pupil desegregation in light of practicalities of the local situation. Naturally a particular judge's perception of the goals and objectives of desegregation and his or

This article is organized around two major categories of strategies; those concerned with pupil or staff desegregation and those which have as their primary focus non-reassignment or ancillary measures designed to facilitate the successful implementation of actual desegregation or to effectuate the remediation of the effects of past discrimination. Under each category a number of specific strategies are (1) identified, (2) defined, and (3) analyzed in terms of their legal adequacy generally, and their effectiveness in the selected communities.

Pupil Reassignment

Federal courts are responsible for reviewing and evaluating pupil reassignment plans to ensure that unconstitutional segregation is eliminated. The primary criterion for assessing the legal adequacy of a plan therefore is its effectiveness in eliminating one-race or racially identifiable schools. (Green v. New Kent County, 391 U.S. 430, 1968).

Although it may vary depending on the nature and scope of the constitutional violations, generally the obligation of school officials is to bring about "the maximum amount of actual desegregation possible in light of the practicalities of the local situation." (Green; Swann v. Charlotte-Mecklenbury Board of Education, 402 U.S. 1, 1971). While prohibited from requiring school districts to achieve a precise racial mix or balance in each school pursuant to this standard, courts are authorized to use racial ratios as a starting point in formulating or evaluating the effectiveness and legal adequacy of proposed plans (Swann). Thus, although a court cannot require that each building reflect the district-wide racial composition, orders requiring each building to approximate the district racial proportions, (plus or minus 15 percent, for instance) have been at least implicitly approved by the Supreme Court. (e.g., Swann; Columbus Board of Education v. Penick, 443 U.S.449, 1979).

Where one-race or predominately one-race buildings remain under a plan, school districts are held to a heavy burden of justification, (Swann) unless they can demonstrate (or adequately rebut a contrary presumption) that the plan in fact eliminates the "cumulative segregative effects" of prior official actions. (Dayton Board of Education v. Brinkman, 433 U.S. 406, 1977).

her conception of what constitutes equal or equitable educational opportunity also enters into this equation. The interaction of these factors in arriving at a legally acceptable and practically effective desegregation plan is illuminated by a detailed review of the judicial analysis of proposed plans in two communities set out in the Appendix. For each of the communities and several components of their desegregation plans, the legal standard to be satisfied is noted along with the goal to be attained, and specific considerations taken into account by the presiding judge in approving or rejecting particular strategies.

Having noted the variety of factors influencing the decision of which strategies should be employed, the pre-eminent consideration from the legal perspective remains whether the plan is effective in eliminating unlawful segregation of students based on their race. Consequently, in the following pages selected pupil reassignment strategies are defined, their legal adequacy discussed and practical effectiveness evaluated in the context of particular communities which have employed them. The discussion is oriented around three generic categories of reassignment strategies: voluntary plans, mandatory plans, and interdistrict or metropolitan plans.

Voluntary Desegregation Plans

Voluntary desegregation plans for the purposes of this section refer to those plans which leave the choice of participation in the desegregation process up to each student and his or her parents. Such plans historically have employed reassignment techniques such as open enrollment, free transfers, and magnet or speciality schools as the exclusive or at least predominant means of reducing racial segregation. Plans predicated on voluntary participation have been proposed at some point among the progression of plans advanced by a very substantial proportion of school districts confronted with a legal obligation to desegregate, including all ten communities examined in this study.

* Open Enrollment or Freedom of Choice

Open enrollment and freedom of choice represent the classical voluntary desegregation techniques. These plans may be structured variously to require an affirmative election of schools on the part of every student or just those who desire to attend buildings other than the one to which they were previously assigned. Traditionally such plans did not provide differentiated curricula from building to building as a means of inducing desegregatory elections on the part of students. Nor in most instances was the admission of any student conditioned on its having a desegregatory impact on building racial composition. Freedom of choice plans have historically been proposed by many districts under a legal obligation to desegregate; winning court approval with some regularity prior to the late 1960's when the Supreme Court clarified the obligation of school officials to take affirmative, effective, and expedient measures to desegregate.

In reviewing a freedom of choice plan proposed for Virginia's New Kent County, the Court held in 1968 that, "(I)f there are reasonably available other ways...promising speedier and more effective conversion to a unitary, nonracial school system, 'freedom of choice' must be held unacceptable." (Green 391 U.S. 430, 441, 1968). On the same day the Court also rejected a plan which provided for mandatory pupil reassignment, but permitted students once reassigned to exercise a free transfer option. (Monroe v. Board of Commissioners of Jackson, 391 U.S. 450, 1968). The Court had five years earlier struck down a plan which provided students assigned to buildings in which they found themselves in the minority to transfer to a school in which their race was in the majority. (Goss v. Board of Education v. Knoxville, 373 U.S. 683, 1963).

Open enrollment and freedom of choice plans were proposed in a number of the ten districts examined, notably Charlotte, Hillsborough County, and New Castle County. Charlotte's experience, not atypical, illustrates why the Supreme Court came to treat voluntary plans with substantial skepticism where a condition of unlawful segregation had been found to exist. The free transfer plan proposed for New Castle County is also briefly described, but in a subsequent section focusing on interdistrict or metropolitan plans.

A desegregation plan proposed for the Charlotte-Mecklenburg Schools in 1965 provided for the establishment of geographic attendance areas and a freedom of choice option to students desiring to attend a school other than the one to which they were assigned on the basis of the area of their residence. The plan was approved by the district court (243 F.Supp. 667) and affirmed by the Fourth Circuit Court of Appeals (369 F2d 29). An analysis of the projected impact of the free transfer provision in the first year of plan implementation lead to the following findings: "all or practically all" of the 396 white students initially assigned to black schools as a result of the geographical zoning exercised their freedom of choice option to transfer out of the formerly black school and 91 of 1,955 black students elected to be reassigned from a white to a black school. (243 F.Supp. 668). The plan was nevertheless approved by the court under the then prevailing interpretation of school district obligations.

Three years later, in declaring the plan inadequate in light of intervening legal developments, the federal district court observed that:

> Freedom of students of both races to transfer freely to schools of their own choice has resulted in resegregation of some schools which were temporarily desegregated. The effect of closing the black inner-city schools and allowing free choice has in overall result tended to perpetuate and promote segregation. (300 F.Supp.1366).

Notwithstanding experiences such as Charlotte's and the Supreme Court's insistence on plans which work, districts continued to advance plans which were principally predicated on volunteerism. The only change was that special attention was paid to means of encouraging voluntary participation in the reassignment process. Magnet schools represented the response of school districts to the obviously unsuccessful and legally unacceptable open enrollment and freedom of choice approach to desegregation.

* Magnet Schools

Magnet schools are ones which offer a unique curriculum designed to attract students from different racial or ethnic groups to a common school based on individual student or parental interest. Magnet schools may be proposed as the principal

means of desegregating (Magnet only plans) or as a supplemental technique within the context of a broader mandatory reassignment plan.

Where conditions of unconstitutional segregation have been found to exist, the legal adequacy of a desegregation plan is determined by its effectiveness in eliminating racially identifiable buildings and it is this standard against which magnet school plans must be measured. Seldom since the Supreme Court's ruling in Green, requiring plans which "promise to work and work now", have federal judges or other governmental officials responsible for passing on the legal adequacy of a proposed desegregation plan approved one which relies exclusively or even primarily on the voluntary participation of large numbers of students in a magnet schools program. Historically plans predicated on voluntary participation have tended to be ineffective at least in contrast to the desegregation that otherwise could be achieved by use of reasonably available alternative reassignment techniques.

Just as judges and other governmental officials are disinclined to order or approve a magnet only desegregation plan, they are approximately equally inclined to permit the inclusion of a limited to moderate number of magnet schools in the context of an otherwise mandatory reassignment plan. Even in these instances however, school officials are generally required to utilize admission procedures which ensure that the magnet schools are racially non-identifiable, sometimes holding these schools to a more exact approximation of district racial composition than non-magnet buildings.

In the communities included in the study of reported legal opinions, school districts frequently proposed at some point in their protracted litigation, magnet only plans or ones which relied on magnet schools as the primary pupil reassignment technique. The use of magnet schools as a supplemental desegregation technique was also proposed by various parties in the cases examined.

Buffalo

Pursuant to a finding of unconstitutional segregation in the Buffalo Schools, the district proposed the adoption in 1977 of the "Buffalo Plan". The purportedly voluntary pupil assignment plan utilized ten magnet schools as the primary technique for desegregating selected inner-city, minority identifiable buildings, while incorpor-

ating a Voluntary Transfer Program under which minority students could elect to attend formerly white schools on the periphery of the city. The plan was approved by a federal district judge as a partial remedy, ordering its implementation in the fall of 1977.

After concluding in subsequent hearings that a district-wide desegregation plan was required to eliminate the unlawful segregation, the court reviewed the extent to which the Buffalo Plan accomplished that goal. (473 F.Supp. 830). Although a substantial reduction in the number of elementary students attending racially isolated schools was reported between the 1975-76 and 1977-78 school year, (26,173 to 7,845 students by defendant's figures), at least 15 all minority schools remained under the plan. The continued existence of these one race minority schools plus the implication of data presented showing that the reduction in students attending one race schools was largely due to the elimination of all majority schools, suggests that the magnet school facet of the Buffalo Plan was not particularly effective in attracting whites to formerly minority schools. (473 F.Supp. 830, 1979). The court was also disturbed by the inequity of the plan which in fact made reassignment mandatory for substantial numbers of minority students whose buildings were closed while white participation via the magnet school program was totally voluntary.

Pasadena

Four years after the implementation of a court approved desegregation plan in Pasadena calling for mandatory pupil reassignment so that no school would be more than 50 percent minority, the school board petitioned the court for permission to substitute an integrated zone magnet school approach. At the time of the hearing, five schools were out of compliance with the court-imposed 50 percent minority ceiling.

The school board contended that white enrollment had been "precipitously in decline" since 1970 due to the mandatory desegregation order and that the plan was "not succeeding educationally." The court rejected as unsubstantiated the white flight thesis advanced by school district experts and found the evidence regarding the educational benefits or inadequacies of the original plan "neither persuasive nor adequate." (375 F.Supp. 1304, 1307-08).

In rejecting the proposed magnet plan, the court noted that it would have to overcome a larger number of potentially imbalanced schools, something that Pasadena and "other California districts laboring under freedom of choice plans have been less than spectacularly successful in achieving...." In a footnote to its opinion the court observed that freedom of choice plans in San Bernardino and Richmond resulted in limited (11-15%) black participation and a total absence of white involvement. (375 F.Supp 1304, 1307 and fn. 12). The district court's retention of jurisdiction and rejection of the magnet plan was affirmed by the 10th Circuit (579 F2d 430) and not distributed by the Supreme Court which ultimately vacated that portion of the 1970 desegregation order which appeared to permanently prohibit any school in the district from being operated at more than 50 percent minority enrollment (Pasadena Board of Education v. Spangler, 427 U.S. 424, 1976).

New Castle County

Among the score of proposals advanced to desegregate Wilmington and New Castle County was one which would establish a system of magnet schools within each of five city-suburban zones of like racial composition. (416 F.Supp 328, 1976). Although this plan as proposed by the State Board failed to provide for racial controls on enrollment at the magnet schools, it was acknowledged that such controls might be included. Nevertheless, the Court observed, "(T)he use of (magnet schools) as the sole means of system-wide desegregation is decidely unpromising." Notice was taken that a similar plan operating in Houston, called to its attention by the State Board of Education, evidenced little success in actually desegregating the schools and even increased segregation in some buildings. (416 F.Supp 345). In addition to its skepticism regarding the market for special programs and their effectiveness, the court observed that the cost projection for such a program 'seem unreliable indeed' in light of experiences in other districts, specifically Houston. (416 F.Supp. 346).

Boston

One of the principal proposals advanced by the School Committee in 1975 for desegregating Boston's schools provided for a phased assignment process involving parental selections from a series of options. Among the options were a city-wide magnet or one of a number of regional magnet schools operated on a desegregated basis. The racial composition of other schools in the zone would be determined by the outcome of the parental selection process. Students who under the system attended racially isolated schools would be assigned to "third-site Resource Centers" one day a week for elementary schools and one day every two weeks for middle schools." (401 F.Supp 228).

Citing a series of southern cases involving complete freedom of choice plans and Boston's own experience with open enrollments and options, the court concluded that to place reliance on such an assignment process and magnet school approach:

> would be to place the realization of the rights of Boston's black students in a vessel that would begin its voyage rudderless against the world. (401 F.Supp 228).

* Magnet as a Supplemental Technique

In contrast to these districts where magnet schools represented the only or primary means of proposed desegregation, courts have with substantial regularity approved of their inclusion as a supplementary technique in the context of an otherwise mandatory desegregation program. This approval is naturally conditioned on their being operated on a racially non-identifiable basis. Supplemental magnet programs have been approved in Boston, Detroit, Milwaukee and Minneapolis among the districts studied. The number and prominence of magnet schools vary substantially from community to community with the specialized curricula associated with each building largely left to local school officials in most (Boston, Milwaukee, Wilmington) but not all instances (Detroit). In some cases, notably Boston and to a lesser extent Detroit, the court ordered the establishment of university, business, labor, or community-school pairings to facilitate the development and support of

distinctive and responsive magnet programs. In Detroit several city-wide magnet schools emphasizing vocational education were ordered instituted by the federal district court as part of a broader, mandatory-reassignment program. In addition to the establishment of the vocational program, the court ordered the construction or remodeling of facilities to house them, approving a 50-50 cost sharing agreement negotiated between the guilty local and state co-defendants for the construction of two new vocational centers.

Mandatory Desegregation Plans

Mandatory desegregation plans are ones in which school officials assume responsibility for reassigning students so as to eliminate racially identifiable buildings, rather than leaving the choice of participation in the desegregation process up to each student and his or her parent (voluntary plans). Some districts may blend mandatory and voluntary reassignment into a single plan, permitting various degrees of volunteerism for students. (See for example, Armstrong v. O'Connell (Milwaukee), 427 F.Supp. 1379, 1977).

Mandatory plans commonly employ one or a combination of reassignment techniques. Among the more prevalent techniques are establishing geographic boundaries where none previously existed, redrawing pre-existing boundaries, closing old or constructing new schools, pairing or clustering buildings, reorganizing grade structures and feeder patterns, and reassigning students and providing transportation where appropriate in conjunction with the utilization of any of the above techniques. For illustrative purposes, several plans relying substantially on geographical zoning or rezoning will be reviewed for their effectiveness in selected communities.

* Geographic Attendance Areas (establish or modify)

One common method of distributing students among buildings in a school district is by dividing the district into a number of geographic areas and assigning students to a particular school based on the area in which they reside. In districts where geographic zones are not in effect immediately prior to desegregation, they may be established as a means of achieving desegregation.

It is within the equitable authority of federal courts to order the establishment of such boundaries and they have done so with some frequency. Naturally the perceived adequacy and practical effectiveness of this technique varies according to the degree of residential segregation present in the community and/or the extent of affirmative gerrymandering reflected in the zoning.

Where geographic attendance zones exist at the time a school district comes under an obligation to desegregate, the redrawing of these boundaries may effectively promote desegregation. This is particularly true where the pre-existing boundaries were drawn, maintained, or selectively adjusted and rigidified in a fashion which created or perpetuated segregation. The authority of federal courts to order such modifications was expressly acknowledged in Brown II. (349 U.S. 294).

Such rezoning may involve relatively minor adjustments to boundaries governing a few schools or substantial modifications of attendance area boundaries district-wide depending on local circumstances and the scope of the constitutional violations found. While rezoning most often reflects an attempt to arrive at compact attendance areas emphasizing proximity between a student's school and place of residence, courts may require affirmative gerrymandering including the utilization of satellite or skip zoning whereby two noncontiguous geographic areas are linked and designated as an attendance zone for a single school. (Swann, 402 U.S. 1).

Establishing or redrawing geographic attendance areas was proposed in seven of the ten communities selected to illuminate the application of various reassignment strategies and their perceived adequacy or practical effectiveness as evaluated by federal courts.

The effectiveness of mandatory plans utilizing geographic reassignment techniques is suggested by the number and proportion of approved plans which incorporate this approach to a significant extent. While geographic zoning may generally be an effective technique in eliminating racially identifiable schools (used alone or in conjunction with other techniques) its effectiveness may vary substantially depending on local conditions and the manner in which it is applied, as evident from an examination of reported cases involving Hillsborough County and Charlotte.

Charlotte

In 1965 the Charlotte-Mecklenburg Board of Education proposed a plan to comply with the constitutional requirement of Brown. The plan called for the assignment of children on the basis of neighborhood geographic attendances drawn without regard to race and a free transfer option which could be exercised without the necessity of giving any reasons. (243 F.Supp 668). The federal district judge reviewing the proposed plan held that in the absence of segregative gerrymandering in drawing the boundaries, the district was not obligated to do more to achieve desegregation. The Fourth Circuit affirmed. (369 F2d 29). The evidence introduced prior to the plan's implemenation indicated that 1,955 of approximately 23,000 black children would "by reason of geography" be initially reassigned to buildings largely populated by whites, while 396 of 52,000 white students would be reassigned to formerly black schools. Under the plan, 44 of the 99 buildings included in the geographic reassignment plan would be in the court's language, "integrated."

The adequacy of the plan was before the federal court again in 1969 when black parents petitioned for further relief in light of an intervening Supreme Court decision charging dual school systems with an affirmative duty to desegregate and to employ means which promised to be effective. The district court held that assigning students on a neighborhood basis in a community where blacks were concentrated in one quadrant of the city was legally inadequate given the circumstances of the case. In reviewing the effectiveness of the previously adopted plans using pupil enrollment comparison between March 1965 and 1968, the court noted that "Most White Students Attend Legally or Completely Segregated Schools" and "Most Black Students Attend Totally or Almost Totally Segregated Schools." (Emphasis in original) (300 F.Supp 1368). Specifically as to black students, the court observed:

> ...of the 24,000 or so black students, 14,086 of them attend school daily in schools that are all black unless at York Road they see one of six white students or at Second Ward they see one of three white students who were enrolled there last October. (300 F.Supp 1362).

Thus, the utilization of geographical zoning drawn on a neighborhood basis may not effectively ensure the elimination of a dual system where extensive residential segregation exists.

Subsequently advanced district plans which relied primarily on affirmative geographical zoning, but exclude school pairings-clusterings substantial use of non-contiguous zoning and transportation, also failed to promise adequate levels of desegregation according to the district (311 F.Supp 270) and Supreme Court (402 U.S. 1, 1971). The school district plan ultimately rejected by the Supreme Court would have left more than half the black elementary students in nine buildings 86 to 100 percent black while approximately half the white students were in schools 86 to 100 percent white in this district with a 71 percent white enrollment. (402 U.S. 9). By contrast, the affirmative geographical zoning at the secondary school level resulted in the projected substantial desegregation of all buildings, once nine satellite or noncontiguous attendance areas were incorporated into the junior high zoning schema. The satellite zones resulted in the assignment of black students to outlying white junior highs. (402 U.S. 9).

Hillsborough County

The potential effectiveness of establishing geographic attendance areas as a primary desegregation technique is also well illustrated by the experience of the Hillsborough County Schools. Additionally, it serves to vividly illustrate that a single technique may be applied in more than one way with legally significant differences in impact, as measured by levels of pupil desegregation achieved.

In 1958 when an action was originally filed alleging the operation of schools on a racially segregated basis in violation of the 14th Amendment, the plaintiff's alleged that "72 schools are limited to attendance by white students only, and 18 schools are limited to attendance by Negro students only." (277 F2d 370, 371). A student transfer plan implemented under the State Pupil Placement Statute did little to rectify the segregation when in 1968 plaintiffs sought further relief under Green. The district filed a comprehensive plan on August 1, 1969 after a series of earlier freedom of choice plans had been rejected by the court. (306 F.Supp 497, 498). The plan provided for the "assignment of students in every school on the

basis of geographical attendance areas, the boundary lines of which are drawn fairly with regard to race." Other reassignment techniques were employed on a limited basis to supplement the geographical zoning aspect of the plan.

In evaluating the proposed plan based on enrollment projections, the district court found it to be adequate though plaintiffs contended the attendance zones could be drawn to produce greater desegregation, particularly at 14 of 88 elementary, and three junior and three high schools. (306 F.Supp 499). Actual enrollment data after the plan's implementation indicated that 60% of the black students were housed in these buildings which continued to have all or virtually all black student populations. (427 F.Supp 876).

The Court of Appeals subsequently found that if strict neighborhood attendance zones were employed at the identified buildings as contrasted to discretionarily drawn geographic boundaries, the two all black high schools would be desegregated and the percentage of black students in all or virtually all black buildings would decline by nine percentage points to 51 percent. (427 F.Supp 878). Such rezoning was ordered along with the pairing of selected elementary buildings which promised to reduce the percentage of black students in all or virtually all black buildings further to 21 percent. (427 F.Supp 877).

Interdistrict or Metropolitan Plans

While the vast majority of all desegregation plans outside a few southern states have involved the reassignment of students among buildings within a single school district, the increasing concentration and isolation of minority students in large urban centers has led to a growing interest in inter-district or metropolitan desegregation. In fact, since the early 1970's metropolitanization has been commonly proposed in legal proceedings involving the nation's largest cities, including numerous southern county-wide districts, and Detroit and Wilmington among the northern districts studied. Additionally, several communities including Boston and Milwaukee have instituted voluntary inter-district transfer programs pursuant to state enabling legislation, but independent of any remedial obligation imposed by court order.

Because the voluntary inter-district transfer program either predated the court order (Boston) or was implemented at the district's initiation as a supplemental

desegregation technique (Milwaukee), they have not been the subject of intense judicial scrutiny or evaluation. Rather, recognizing the absence of any legal basis on the record for compelling such transfers, the courts have merely acknowledged their existence and endorsed their continued usage to the extent they contributed to lessening conditions of segregation.

In the one situation where legally significant inter-district violations were demonstrated, a court rejected a proposed voluntary transfer program across district boundaries, citing numerous deficiencies including its probable ineffectiveness. In assessing the promise of a plan which nine suburban New Castle County districts and the Delaware State Board of Education advanced pursuant to a state statute authorizing such transfers, the court noted that only three white students had elected to participate in such a plan during a recent year in which it was available. (Evans v. Buchanan, 447 F.Supp. 982, 1000-1001 fn 93).

The result of the rejection of a voluntary inter-district transfer to desegregate Wilmington and neighboring New Castle County districts, was the ultimate merging of eleven previously independent school districts and the adoption of a mandatory plan reassigning students across former district boundaries. (447 F.Supp. 982, affirmed 582 F.2d. 750, mandamus granted on other grounds). In arriving at the final plan, the court rejected a variety of ones which would have maintained the separate districts, but reassigned students among them or reorganized the existing districts into a fewer number with each incorporating a portion of minority populated Wilmington and Delaware. (416 F.Supp. 328).

Detroit was the other northern district studied in which a mandatory metropolitan desegregation plan was considered by the courts. While the trial judge (345 F.Supp. 914) and the Sixth Circuit Court of Appeals (484 F.2d 215) concurred that desegregation could not be effectively achieved within the boundaries of the then approximately 65 percent black school district, the Supreme Court ultimately reversed the lower courts and in doing so articulated the legal standards to be utilized in determining when an inter-district desegregation plan is within the authority of the courts to order. (418 U.S. 717, 1974).

Specifically, the Court held that although an inter-district or metropolitan plan may be practically effective in reducing the racial segregation of pupils, it may be legally unavailable unless certain conditions are present and can be adequately

demonstrated. These conditions are unconstitutional actions on the part of state or school officials which have an interdistrict segregatory effect. While interdistrict violations have been found in a number of cases and have been alleged in numerous other instances in which litigation is still in progress, the number of districts which have implemented metropolitan plans is still relatively small.

Non-Reassignment Components and Strategies

The development of a plan intended to open formerly white schools to blacks and other minorities (and the converse), does not ensure effective desegregation, the attainment of unitary status, or the remediation of the consequences of past state-sanctioned or imposed segregation. As the Supreme Court somewhat prophetically observed in 1955, even the admission of students on a non-racial basis would require "the elimination of a variety of obstacles" including ones "related to administration, physical conditions of the school plant, the school transportation system, personnel,... and the revision of local laws and regulations..." (Brown II, 349 U.S. 300-301, 1955).

As actual desegregation got underway on a substantial scale in the late 1960's, lower federal courts began to realize that measures independent of pupil and staff reassignment would be necessary to bring about unitary status and ameliorate the consequences of past segregation and inequality. Supported by their appellate brethren, federal district judges began ordering with some regularity limited non-reassignment measures such as the implementation of remedial educational programs and the establishment of bi-racial community advisory committees. For cases involving remedial educational measures, see for instance, Stell v. Board of Education of Savannah, 387 F2d 486, 492, 496-97 (1967); Graves v. Walton County Board of Education, 300 F.Supp. 188, 200 aff'd 410 F2d 1153, (1968); U.S. v. Jefferson County Board of Education, 380 F2d 385, 394, cert. denied 389 U.S. 840 (1970), U.S. v. Texas Education Agency, 447 F2d 441, 448, stay denied sub nom; Edgar v. U.S., 404 U.S. 1206 (1970). As to Biracial Advisory Committees, see, for example, Singleton v. Jackson Municipal Separate School District, 419 F2d 1211, reversed on other grounds 396 U.S. 290 (1970) and 426 F2d 1364, cert. denied 402 U.S. 944 (1971); Ellis v. Board of Public Instruction of Orange County, 423 F2d 203 (1970); and Valley v. Rapids Parish School Board, 434 F2d 144 (1970).

FIGURE 3

AN INVENTORY OF SELECTED DESEGREGATION STRATEGIES BY COMMUNITY IN WHICH THEY WERE COURT ORDERED

Community Preparation and Involvement	Bst	Bfl	Wlm	Chl	Tmp	Dtr	Mlk	Mfp**	Pdn	Dnv
1. Multi-ethnic advisory/planning committee	X				X	X				
2. Informational materials/notices	X			S			X			X
3. Information/guidance centers	X					X				X
4. Parental orientations/visitations	X						X			X
5. Monitoring agent or commission	X		X			X	X			X
Structural and Curricular Changes										
1. Racially representative workforce	X								X	X
2. Desegregated staffing/reassignment*	X	X	X	X	X	X	X		X	X
3. Classroom desegregation*	X									
4. Desegregated extra-curricular*	X			X	X	X				X
5. Representative student gov't	X									
6. Counseling services and/or testing			X			X				X
7. Fair and uniform discipline			X			X				
8. Equal or multicultural curriculum	X		X	X		X	X		X	

The appropriateness of such independent measures and the authority of federal courts to order their inclusion as part of a desegregation plan was confirmed by the Supreme Court in 1977 in a case involving the Detroit Public Schools (Milliken v. Bradley, 433 U.S. 267, 1977). In that case, a federal judge had ordered the adoption of a variety of "educational components", originally proposed by the Detroit Board of Education, and assessed a portion of the cost of selected ones against the state, a guilty co-defendant in the litigation. The state challenged, contending that the educational components could not be required since the constitutional violation involved only the segregation of students. The Court rejected this contention, noting that equitable principles only require that the remedy "...directly address and relates to the condition offending the Constitution." (emphasis in original) (433 U.S. 282). Cautiously pointing out that the case did not represent a blue print for others, the Court did observe that "pupil assignment alone does not automatically remedy the impact of previous, unlawful educational isolation..." (433 U.S. 287-88).

One means of assessing the perceived appropriateness and effectiveness of such independent measures is to examine the regularity with which federal courts have ordered or expressly approved of their incorporation in desegregation plans. Among the types of measures that educators and desegregation planners have come to recommend to facilitate the transition to unitary systems and remedy the impact of previous isolation are ones addressing Community Preparation and Involvement, Structural and Curricular Changes, and School Climate (See Volume I of this Project for a synthesis of effective strategies in these areas). Figure 3 reflects in which of the ten studied communities selected non-reassignment strategies were ordered or approved by federal courts as discernable from a review of reported decisions. It may also be used to assess the comprehensiveness of court ordered plans, at least as pertains to the selected strategies inventoried. Finally, it permits an analysis of the relative frequency with which particular strategies were ordered across the ten communities. For reasons noted subsequently, however, the principal and most appropriate use of Figure 3 is simply to illustrate judicial recognition of the need and appropriateness of various, selected non-reassignment strategies in the context of ten not atypical communities.

Behavioral and Climate Changes	Bst	Bfl	Wlm	Chl	Tmp	Dtr	Mlk	Mnp**	Pdn	Dvn
1. Staff preparation or training										
a. Human relations/ communications	X		X			X	X	X		X
b. Minority culture/history						X				
c. Testing						X				X
d. Guidance/counseling						X				
e. Discipline/code of conduct						X				
f. Teacher expectations/ attitudes										X
g. Teaching strategies/materials				S		X				
h. Change and problem solving				S						X
2. Student preparation or training										
a. Planned human relations activities	X						X			X
b. Training programs and workshops						X	X			

X = ordered
S = suggested
* = Reassignment-related components and strategies, listed here to coincide with conceptual schema employed in other aspects of overall study.
** = Minneapolis - The Court accepted and ordered the implementation of a board proposed plan with little description or elaboration of it in the formally reported opinions of the court.

The reader is cautioned that the fact a strategy is not denoted in conjunction with a particular community should not necessarily be construed to mean that such a strategy or an allied one was not in fact employed. One of the following explanations may apply:

1. the strategy was implemented solely on the initiative of local school officials;
2. the strategy was not expressly identified as among those ordered or approved by the court; or
3. the strategy, although expressly ordered or approved by the court, was not specifically discussed in a formally reported and published opinion or order of the court.

While historically courts have required limited remedial measures in addition to pupil and staff reassignment, a number of factors have converged to increase the frequency with which such measures are ordered and their extensiveness. These factors include the growing recognition that mere body-mixing does not automatically ensure educational equity; the increasing concentration of minority students in urban centers where "substantial desegregation" is impossible; the reduction in financial resources available to minority-populated urban districts due to deteriorating tax bases and declining enrollment; the practice of joining the state, with its broader base of resources, as a party; and the favorable legal precedent established in recent years for such independent measures. Naturally the decision of one or more parties to seek such relief, the nature and scope of the constitutional violation, the adequacy of record evidence supporting such measures, and the judge's view of the appropriate level of judicial involvement in desegregation planning and monitoring, also represent substantial influences on whether or not such strategies may be ordered.

Although the trend appears to be toward greater inclusion of such strategies as part of court orders, their adoption on the recommendation of educators or desegregation planners has frequently been characterized by a minimum of substantive analysis, at least as evidenced in reported opinions. (e.g. Milliken, 402 F.Supp. 1096, 1138-47).

This may be explainable in part by the fact that while there may be substantial disagreement regarding who should hear the cost of their implementation, there is a general consensus among educators, including defendant school officials, that such non-reassignment measures are advantageous.

Only relatively recently have courts begun to evaluate the implementation and/or effectiveness of non-reassignment components to an appreciable extent. It may occur, however, in any of a number of circumstances. One is where, irrespective of the presence or absence of non-reassignment strategies in the court-ordered plan, substantial problems arise which threaten the desegregation process itself such as happened in Boston. There, after hearing testimony and personally visiting a troubled high school, the presiding judge ordered the adoption of additional remedial strategies including the repair and painting of the school, purchase of certain items of sports equipment, the removal and transfer of specified individuals whose behavior obstructed the plan's complete implementation, and the appointment of a receiver. (Morgan v. Kerrigan, 409 F.Supp. 1141, affirmed sub nom, Morgan v. McDonough, 540 F.2d 527, cert. denied 429 U.S. 1042, see also 548 F2d 28). Having done so, the court subsequently, consistent with principles requiring such extra-ordinary remedial measures be limited in duration, visited the school again and considered testimony regarding whether or not the conditions which promoted segregation and unrest at the school had been effectively rectified. It found that they had, and approved a consent decree which dissolved the receivership (456 F.Supp. 1113).

A second common juncture for judicial review and evaluation of desegregation and potentially its non-reassignment aspects is when a school district contends that unitary status has been attained and its affirmative obligations satisfied. Such an assertion may accompany the school district's motion that the court relinquish its continuing jurisdiction or be made in response to a motion by plaintiff's for further relief. The scope of review in such situations has varied considerably based on the circumstances. Some courts have been singularly concerned about district compliance with racial ratios governing student and staff reassignment (e.g., Booker v. Special School District No. 1, Minneapolis, 451 F.Supp. 659, affirmed, 585 F.2d 347, 1978; Pasadena Board of Education v. Spangler, 427 U.S. 424, 1976; and see also U.S. v. South Park Independent School District, 566 F.2d 1221, rehearing denied 569 F.2d 1155, cert. denied and dissenting opinion 439 U.S. 1107, rehearing denied 439 U.S. 1135, 1978). Other courts have examined the school district to assure itself that

various indicia of a dual system other than student and staff assignment are no longer present (e.g. Manning v. Board of Public Instruction of Hillsborough County, 427 F.2d 874, 1970).

An even more comprehensive evaluation of a school district's transition to unitary status has been ordered by one federal court. In this instance, seven years after the implementation of a desegregation plan, the court appointed experts to conduct a comprehensive review of measures undertaken by the district. The review resulted in an analysis of the cognitive and behavioral outcomes associated with the plan, as well as those pertaining to student and staff assignment. Based on hearings at which the evaluation played a significant role, the court entered an order requiring the institution of new, or modification of previously employed, non-reassignment components and strategies. The order also obligated the state to hear a portion of the costs of these ancillary programs. (Oliver v. Kalamazoo Board of Education, K88-71 C.A., November 30, 1979).

The Sixth Circuit subsequently vacated and remanded, however, concluding that there was inadequate record evidence to substantiate the lower court's finding that racial disparities in classroom assignments and academic achievement, either were the result of unlawful actions on the part of school district officials or represented the continuing effect of prior unconstitutional actions. (Oliver v. Kalamazoo Board of Education, No. 79-1723, December 15, 1980). The court also observed that the burden of proof had been inappropriately placed on the state and local school officials in several instances. In a stinging separate opinion, one judge indicated his belief that rather than remanding the case for further proceedings, it should be dismissed at once "seven years after the races had been balanced... and the children had been attending a unitary system over all these years." (slip opinion, at p.82).

A third context in which courts may become involved in evaluating non-reassignment components is where specific ancillary strategies were initially ordered as a part of the desegregation plan. The likelihood that these components and constituent strategies will have their implementation and effectiveness evaluated is particularly prevalent where an independent monitoring agency with full time professional personnel is created and charged with such responsibility.

Among the communities surveyed, Detroit most nearly represents this situation. There the district judge conducted a series of contempt hearings to

examine the implementation, and at least indirectly, the effectiveness of various strategies in correcting historical conditions of segregation and discrimination. However, prior to the issuance of formal findings the presiding judge was withdrawn, although not formally recused from the case at the suggestion of the appellate court. (620 F.2d 1143).

Nevertheless, it is in Detroit and other communities with mature monitoring agencies that educators and social scientists may learn the most regarding judicial assessments and perceptions of the effectiveness of various non-reassignment strategies, as well as their legal appropriateness. Those undertaking such studies should anticipate the need for and ensure the availability of resources adequate to permit the review of documents and reports filed with the court by various parties and agencies and court transcripts, as well as reported decisions.

Even in one of these contexts, or another in which judicial review of non-reassignment strategies is joined, it can be anticipated that courts will tend to focus their monitoring on whether or not the measures were implemented (Plan Implementation), rather than whether they were effective in bringing about the desired outcomes. (Plan Effectiveness). This is in contact to the present focus of judicial inquiry in the pupil or staff assignment context. This difference in focus may be attributable in part to factors such as the relative recency of court orders including extensive ancillary components, the absence of a set of generally agreed upon goals and demonstratable indicators of their attainment, the unavailability of data or inadequate methods for measuring attainment of goals; and a hesitancy on the part of courts to become enmeshed in the less-mechanical or less-structural aspects of educational decision making.

Whatever the contributing factors, there are presently an insufficient number of judicially supervised evaluations of particular non-reassignment strategies to permit even limited generalizations. Notwithstanding the factors which mitigate against such evaluations, the increasing emphasis placed on such strategies and the developing sophistication of monitoring agencies, will undoubtedly result in more extensive discussion of the relative significance and effectiveness of some such non-reassignment strategies in cases reported in the future.

Summary

Federal courts are responsible for ensuring that local school officials carry out their constitutional obligation to remedy unlawful segregation. Historically a variety of voluntary reassignment strategies such as open enrollment and freedom of choice were advanced by districts, but with little practical effectiveness in reducing levels of pupil segregation. The experience of several of the studied communities substantiate this.

Courts consequently turned to plans which provided for the mandatory reassignment of pupils including plans employing techniques such as geographic zoning or rezoning, pairing or clustering of buildings, restructuring school grade organizations and feeder patterns, closing old or constructing new facilities, and transporting students. The review of reported decisions served to illustrate and illuminate the effectiveness of several such mandatory assignment strategies, as well as how the same or similar strategies may result in substantially different levels of effectiveness based on the manner in which they are applied.

While desegregation plans or strategies which are ineffective are generally legally unacceptable, not all effective strategies are within the authority of courts to order. Metropolitan desegregation, for instance, may be legally required only where unconstitutional actions having an interdistrict segregatory effect can be demonstrated. The positive desegregatory effects of a metropolitan strategy are illustrated by one of the districts studied, while another district illustrates the operation of a legal restraint on what would otherwise be a practically effective strategy.

Although becoming increasingly prevalent, to date non-reassignment strategies have tended not to be subjected to as thorough a judicial evaluation as reassignment strategies. Consequently, while it is not without flaws, for the present one is largely left to assess the perceived effectiveness of various strategies, and doing so by counting the frequency with which they have been incorporated in court ordered or approved plans.

The adoption or rejection of a particular reassignment or non-reassignment desegregation component or strategy, however, is not predicated purely on its effectiveness. Various other factors, some educational, others demographic, and still others equitable in nature enter into the equation which ultimately leads to the adoption or rejection of a particular strategy. To illustrate the interaction of such considerations, detailed analysis of the judicial evaluation of plans proposed for two communities were prepared as part of the overall report and incorporated in the Appendix.

APPENDIX

JUDICIAL EVALUATION OF SCHOOL DESEGREGATION STRATEGIES: An Analysis of Two Communities

The synthesis of the Boston and Denver desegregation plans, which may be useful to school officials and planners as well as monitoring and compliance agency personnel, serves to: (1) identify the goals and objectives of desegregation and various subordinate components as perceived by selected federal judges; (2) set out the legal standards used to measure plan or component adequacy; (3) inventory particular strategies advanced by parties and the court's disposition of each; and (4) report the specific considerations taken into account by the presiding judge in approving or rejecting particular strategies. This information is presented in the following format:

A. Component

The left most column identifies major conceptual components of desegregation plans with which particular strategies may be associated. The components include:

1.0 student desegregation
2.0 staff and faculty
3.0 curriculum
4.0 co and extra curricular
5.0 facilities and equipment
6.0 transportation
7.0 community preparation and involvement
8.0 student preparation
9.0 staff preparation and training
10.0 administration and governance
11.0 monitoring
12.0 other

B. Legal Standards and Rationale

The second column sets out the judicially articulated goal or objective(s) associated with the component and the legal standard utilized in determining its satisfaction.

C. Strategies Advanced or Adopted

The next column displays component-associated strategies advanced by various 'parties' to the litigation including Plaintiffs (P), Defendants (D), Court Appointed Master or Expert (E), the Court itself (C), or Others (O) (intervening party, government agency, etc). Where more than one 'party' proposed the same or similar strategy, both are indicated. It should be noted that frequently one party's strategy is modified to a greater or lesser degree based on objections of others, resulting in a plan not exclusively of one party's making, but which continues to be referred to as such.

An asterisk (*) appears after those strategies which the court ordered, or approved the implementation of, as part of a proposed plan. An "r" is used to denote instances in which the highest court to review the plan reversed the lower court's approval of a particular strategy either prior to or after its implementation.

D. Court Considerations

The right-most column cites the explicit criteria or considerations employed by the court(s) in arriving at a decision to improve or reject a particular strategy. After the criteria, a plus (+) or minus (-) sign is indicated to reflect the direction in which the criteria weighed in evaluating the particular strategy's application in the specific factual context before the court. An asterisk (*) is used in this column to denote a criteria found to be legally impermissible in reviewing and evaluating plans.

An Analysis of Judicial Decisions Pertaining to the Desegregation of DENVER, COLORADO

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (H) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
1.0 Student Desegregation			
1.1 Among buildings	"[T]he primary objective of desegregation is to overcome the invidious discrimination found to exist in a dual system and simultaneously to bring about equality of education." [380 FS 684]	• General Guidelines of Court	• dismantles dual segregated system [380 FS 684] • avoids unnecessary burdens on minority children [380 FS 684] • ability to accomplish tasks at hand [380 FS 685] • prompt [380 FS 685] • feasible/realistic [380 FS 685] • fair in relation to objectives and means of accomplishing [380 FS 685] • minimum of disruption [380 FS 694] • minimum of transportation and disproportionate burdens [380 FS 694]
		Defendant School District Plan	
		• Racial ratio (D) (> 25< 75% Anglo in 60% Anglo district)	• identifiability (-) [380 FS 682]
		• School closings (D) (11 central city elementary schools and a junior high) [380 FS 675]	• effectiveness (-) [380 FS 675-76, 682] • obstacle to desegregation (-) [380 FS 682]
		• Reassignment of affected students (D) (4,165) [380 FS 675]	• residential stability (-) [380 FS 683] • structural adequacy (-) [380 FS 683]
		[No similar efforts junior/senior high] [380 FS 679]	• appropriate use of resources (-) (waste) [380 FS 683]

District: DENVER

Component:	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
		• Part-Time Educational Enrichment Centers (D) (half-day/three weeks per term special programs in desegregated settings for segregated elementary and secondary students) [380 FS 679]	• portion of education (-) [380 FS 682-83]
		Plaintiff Plan	
		• Pairing and Clustering (P) (70 elementary schools)	• complexity (-) [380 FS 681] • rigidity (-) (assigns all students at selected grades out of neighborhood irrespective of race) [380 FS 681] • peer continuity (+) [380 FS 681] • frustration factor (-) (unavailability of grade in neighborhood reduces frustration of those transported) [380 FS 681] • continuing relationship between schools/community support (+) [380 FS 682] • level of transportation (-) [unacceptable] [380 FS 682]
		• Transportation (P) [380 FS 679]	• equity of burden (+) [380 FS 681] • amount of transportation (-) [380 FS 681, 682] • efficiency (-) [380 FS 681]

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
			• geographic factors (-) [380 FS 682]
			• lenght of bus ride (-) [380 FS 682]
		• Naturally desegregated schools excluded (P) [380 FS 679]	
		• Voluntary open enrollment - discontinution recommended (P) [380 FS 679]	
		• Adjustment of secondary feeder patterns (P) [380 FS 680]	• student continuity (+) [380 FS 682]
		Expert and Court Plan	
		• Racial ratio (E) * (ele: > 40% < 70% Anglo/sec: 750% < 60% Anglo) [380 FS 687]	• flexibility (+) (exception for bilingual needs) [380 FS 687; reversed, 521 F.2d 465]
		• Redraw or adjust goegraphic attendance zones (E) * [380 FS 689]	• proximity home-school (+) [380 FS 686]
			• efficiency (+) (avoid busing to same race school)
		• Classroom Pairing Part-Day*	• neighborhood social institution (+) [380 FS 687]
			• neighborhood site for: - playground (+) - extra curricular activities (+) - special programs (+)

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
			• continued... -parent activities (+) [380 FS 687 and 521 F2d 478] • focal point for community influence and support (+) [380 FS 687] • logistics/transportation (+) [380 FS 687] • transportation time/distance (+) [380 FS 688] • educational impingement (-) [380 FS 688] • convertability (+) (regular pairing) [380 FS 688]
		• Classroom Pairing Part-Day (O)(D)(E)(C)*r (continued) (37 schools: 12,000 students) [380 FS 689] - extension of school day to accommodate during school transportation [380 FS 688] - placement of aide on bus	• effectiveness (+) (breaks isolation for heart of day) [380 FS 687, reversed 521 F2d 465] • flexibility (+) (classroom or grade exchange, alternation of students, daily or weekly options) [380 FS 689-90] • staff planning (+) [380 FS 689] • continuous neighborhood contact (+) [380 FS 687] • family control of student and support (+) [380 FS 693]
		[r= reversed on appeal]	

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
		• Satellite zoning (E)* (23 ele schools: 1,100 students) [380 FS 690]	• alternating burden (+) (students satellited at elementary, assigned to neighborhood junior high) [380 FS 690]
		[380 FS 691 and 521 F2d 475]	• special measures (+) [521 F2d 479 fn 12]
		- emergency transportation arrangements provided - extra buses for stragglers - transportation for PTA, etc. [380 FS 706 and 521 F2d 479 fn 12]	
		• Transportation (E)* (short and satellite)	• number transported (+) (minimize students bused [380 FS 685]
			• efficiency (+) [380 FS 685]
			• residential stability (+) (differentiate Anglos v. minorities) [380 FS 685]
		• Voluntary open enrollment (controlled) (continued on interim basis) [380 FS 686]	
	District Court Rationale -	• Merger of high school campuses into 2-school complex (C)*	• teacher exchange (+) [380 FS 691]
	"...bring about a metamorphasis whereby this [formerly minority] school will enjoy the same standing and reputation enjoyed by other fine high schools in the system." [380 FS 691]	[380 FS 691-92, reversed 521 F2d 484]	• course availability (+) [380 FS 691]
			• economy-non duplication (+) [380 FS 691]
			• geographic proximity (+) [380 FS 691-692]
		[r= reversed on appeal]	

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced (P) (D) (Court/Master (O)	Advancing Party's Rationale
	Legal Standard Setout by Appellate Court - "...courts may order changes in school systems only to relieve a constitutional violation or to remove obstacles to such relief." [521 P2d 484]		• relationship remedy to violation (-) [521 P2d 484]

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
2.0 Faculty and Staff 2.1 Recruitment	Goals/Rationale "There must be an affirmative hiring program...to increase the number of minority teachers in all of the schools. The number of Chicano teachers in a particular problem..." [380 FS 688] "[T]o achieve ratio of Hispanic and Black personnel that 'reflect more truly'...students in the District." [521 F2d 484]	• Affirmative Employment Program* (P) [380 FS 680] (D) [380 FS 682] (C) [521 F2d 484] - administrators* (P) - teachers* (P) (D) - aides (P) - student teachers (P) - teacher assistants (P) - parents (P) (No specifics of Program identified in published court opinions although reference made to one's adoption and district's appeal) [521 F2d 484]	• similarity to district's own plan (+) (521 F2d 484]

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
2.0 Faculty and Staff 2.2 Assignment	Goals/Rationale Faculty desegregation (was viewed by the lower court) as "essential to the process of school desegregation." [521 F2d 484] The District shall "assign its personnel so that, in each school, the ratio of minority teachers and staff to Anglo teachers and staff shall not be less than 50% of the ration of minority to Anglo staff in the entire system." (quoting Court of Appeals reiteration of district court order, 521 F2d 484) [1973- 8.8% black and 3.6% Hispanic teachers]	• Assignment ratio (P)(D)(C)* P = [380 FS 680] D = [380 FS 682] C = [521 F2d 484]	

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
2.0 Faculty and Staff			
2.3 Demotions, Dismissals Reducations on Staff	See strategy column	• Pre-established nondiscriminatory criteria [referred to at 521 F2d 484] • Written criteria available to public [referred to at 521 F2d 484]	• requires mere adherence to law [521 F2d 484]

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
3.0 Curriculum	Trial Court Some provisions for effecting a transition of Spanish-speaking children to the English language will clearly be a necessary adjunct to this court's desegregation plan. Furthermore, this court is mindful that meaningful desegregation must be accompanied by some appropriate alternations of existing educational programs in order to adequately deal with new problems which will arise in the operation of desegregated rather than segregated schools. [380 FS 695 (appendix)] [The] bilingual-bicultural approach to the education of this minority group is a very sensible method and to the extent that it can be useful to building bridges between the Spanish and Anglo cultures, it is to be fully utilized. [380 FS 692]	• Bilingual-bicultural Program (P)(Q)*r - exclude pilot school site from plan [380 FS 692 reversed 521 F2d 465] - institute bilingual program at the court named buildings [380 FS 692 reversed 521 F2d 480]	
	Appellate Court Not demonstrated program necessary to effectuate meaningful desegregation. [521 F2d 481] The district is not obligated to provide education tailored to needs of children, just an equal educational opportunity and thus program is not designed to provide equal opportunity at minority buildings where not previously available. [521 F2d 481]	[r= reversed on appeal] - Relevant and Necessary Curriculum (P) (not elaborated upon in published opinions) [380 FS 679]	• relationship of remedy to violation (-) [521 F2d 481] • local control/support (-) [521 F2d 481] • state and local approaches/programs (-) [521 F2d 481] • court's lack of expertise (-) [521 F2d 482]

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C). (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
4.0 Co and Extra Curricular Activities		• Extracurricular planning (D) (will be carried out to provide for broadest participation) [380 FS 703]	

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
5.0 Facilities and Equipment		• Facilities Equalization (P) (no remedy expressly granted in reported opinions) [380 FS 673]	

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
6.0 Transportation		• Transportation aides (E)* (Teacher aides will accompany transported classes under classroom pairing plan in so far as possible) [380 FS 688] • Transportation services (E)* [380 FS 688]	

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
7.0 Community Preparation and Development	Included in any viable program the purpose of which is to promote equal educational opportunity "[t]here must be adequate preparation of...parents.." [380 FS 688]	• Orientation Programs (P)(D)* for parents by T.V. and at buildings [380 FS 700 and 702]	
		• Information Centers instituted at each building [380 FS 699]	
		• Parent-Parent Meetings (D)* between sending and receiving schools [380 FS 703]	
	The school district's proposals"... should be implemented..."	• Planned Parent Activities (D)* [380 FS 704]	
		• QIE Committee (D)* [380 FS 704]	
		• Monitoring Commission (P)(E)* [380 FS 697]	
		• Community Resource Utilization (P) (C of C, League of Women Voters assistance [380 FS 680]	

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
8.0 Student Preparation	Included in any viable program, the purpose of which is to promote equal educational opporutnity "[t]here must be adequate preparation of student body..." [380 FS 688]	• Inter-school visitations (P)(D)* [380 FS 701, 680] • Buddy System (D)* [380 FS 701] • Inter-school group activities (D)* prior to plan implementation [380 FS 702] • Orientation programs (pre-opening)(D)* [380 FS 702] • Workshops (Pre-implementation)(D)* [380 FS 702] - student leadership - student-student relations - issues and processes • QIE Committees (D)* (quality integrated education committees of students, staff and parents to direct intergration activities) [380 FS 704]	

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
9.0 Staff Preparation and Training	Included in any viable program the purpose of which is to promote equal educational opportunity "[t]here must be adequate preparation of...teachers." [380 FS 688] The school district's proposals "... should be implemented to the extent there is no delay in implementing the plan." The proposal was reproduced in an appendix to the opinion. Note that plaintiffs had made similar although more general recommendations in some instances as denoted by (P).	• Orientation (P)(D)* -Explanation of plan (all staff) [380 FS 699,680] -Examination of implications on roles (all staff) -Conferences between principals and newly assigned teachers [380 FS 700] • Teacher-Teacher Exchange Opportunities (D)* (joint faculty and planning meetings) [380 FS 700] • Training (D)(P)*(Pre-Implementation) - Workshop Series for Elementary Administrators [380 FS 649-700] * communications * educational innovations * program implementation * inter-personal relationships * role examination * attitude assessment and improvement - Teacher Workshops (D)*(P) [380 FS 701] * student-student relations * student-teacher relations * teaching strategies * intra-staff relations * plans for parent involvement * teacher-parent relations	

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
		- Inservice training programs (P) [380 FS 680] (mandatory, ongoing on subjects) • human relations • minority history and culture • discipline administration • teaching in integrated environment - Role and Attitude Assessment Workshop (D)* [380 FS 698-700] all staff including noncertificated. • Staff Training (Post Implementation) (D)* - New Employee orientation program (P)(D)* [380 FS 703] - Continuous staff development activities [380 FS 703] • new teaching strategies and materials • student-teacher relations • school-parent relations • identified needs and problems • QIE Committees (D)* (With student, teacher and parent representation to direct integration activities) [380 FS 704]	

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
11.0 Monitoring		• Monitoring (P)(E)(O)* P= [380 FS 679] E= [380 FS 697] [no express order or specifics in published opinions although one was required and developed with the assistance of the Community Relations Service of the Justice Department]	

District: DENVER

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
12.0 Other- Supportive Services		• Counseling (P) [380 FS 673] • Nutrition (P) [380 FS 673] • Health (P) [380 FS 673] • Discipline (P) [380 FS 673]	

An Analysis of Judicial Decisions Pertaining to the Desegregation of BOSTON, MASSACHUSETTS

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
1.0 Student Desegregation 1.1 Among buildings	**Legal Standard** [The Plan] shall provide greatest possible degree of actual desegregation of all grades in all schools in all parts of the city. (401 FS 225) [R]acial composition...of each school should generally reflect the ratio of black and white students enrolled at the grade level schools...throughout the system. (401 FS 225) **Rationale** One race schools reminder of past exclusionary practices. (401 FS 232) Segregated schools generate feelings of inferiority affecting hearts and minds. (401 FS 232) Segregation cuts minorities off from majority culture and standards which determine success in society. (401 FS 322)	• Magnet school program (D) • Part-time Integrated Resource Centers (D) • Community School Districts* (geographic boundaries established dividing city into 8 regions) (C) (M)	• effectiveness (-) (401 FS 228) • administrative feasibility (-) (401 FS 228) • parental choice (+) • community resistance* white flight (401 FS 228) • effectiveness (-) (401 FS 228) • effectiveness (+) (401 FS 250) • educational program continuity (+) (401 FS 250) • unit for correlating needs and program (+) (401 FS 250) • new ties among neighborhoods (+) (401 FS 250)

District: BOSTON

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
			• residential stability (+) (401 FS 250)
			• proximity (+) [401 FS 240, 250]
			• minimize transportation (+) (401 FS 250)
			• access routes and traffic (one instance -) (401 FS 250)
			• poor continuity (geo codes +) [401 FS 640]
		• City-wide Magnet Schools* (controlled ratio) (C) (M)	• voluntary choice (+)--decreases conflict
			• neutral turf (+)
			• attractive/appropriate program (+)
		• Controlled transfers* (M)	• special needs met (+)
		• School grade reorganization* (O) (M) (Middle schools, selected others)	• uniformity (+)
		• School closings* (M) (O) (401 FS 245-46)	• effective desegregation (+)
			• utilization of facilities (+)
			• economy (+)
			• location

District: BOSTON

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
		• Transportation*	• physical condition (+) • equity of burden (+) • health/safety consideration (+) • impingement on education process (+) • time (+) • distance (+) — • alternate burden (-) (401 FS 263)

District: BOSTON

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (H) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
1.0 Student Desegregation 1.1 In-buildings	Legal Standard There shall be no segregation of students within schools, classrooms or programs in the school system. (401 FS 251)	• No specific strategies provided for in original remedial order.	• See subsequent opinions pertaining to South Boston High.

District: BOSTON

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (H) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
2.0 Faculty and Staff 2.1 Recruitment		• Affirmative Recruitment Program (P)* (338 FS 581, affirmed F2d) - visits to colleges with significant black students (3x year) (338 FS 584) - campus interview satisfies requirement (338 FS 584) - authority to hire qualified candidates on spot (338 FS 584) - full time coordinator of M Recruitment and two assistants (338 FS 584) - teams of teachers assist in recruitment with training (388 FS 584) - settlement assistance for new staff (388 FS 584) - budget of specified amount (338 FS 584) - encourage blacks to apply for Board of Examiners (388 FS 584) - semi-annual activity reports (388 FS 585)	

District: BOSTON

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
2.0 Faculty and Staff 2.2 Hiring -- Staff Racial Composition	<u>Legal Standard</u> School district staff composition should approximate the percentage of blacks in the affected areas population (20%) (C) [388 FS] rather than the percentage of black college graduates in the city or region (5%) as contended by the district and teachers union of the percentage of black students, (35%) as argued by the plaintiffs. <u>Objective</u> Eliminate the effects of post-discrimination.	• Hiring Ratio* (P) - hire one black permanent teacher for every white permanent teacher where underrepresented at grade level [388 FS 585] - one to one hiring ratio for provisional teachers, except previously employed may be rehired first [388 FS 585] - catch up proviso providing blacks preference among new hires until equal number of blacks hired [530 F2d 434] - qualification of certification only, not additional district-dictated courses [530 F2d 435] - waiver after July 15 - file report periodically with court and parties # employees by race at grade ranking system vacancies persons to be hired # applicants # hires by race	• realistic goal (+) [530 F2d 434] • no undue burden on whites (+) [530 F2d 434] • does not require hiring of unqualified (+) [530 F2d 434] • termination point specified (+) [530 F2d 434]

District: BOSTON

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (H) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
2.0 Faculty and Staff 2.3 Assignment	Teaching staff at each building should reflect the racial composition, and experience and credential levels of teachers district-wide.	• Reassign teachers (means unspecified)	• race • experience • qualifications/credentials

District: BOSTON

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (H) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
2.0 Faculty and Staff			
2.4 Removal and Transfer	[B]ring administration and operation of high school...into compliance with the student desegregation plan...and other remedial orders....[548 F2d 29]	• Appoint Receiver for high school	• conduct at odds with order (+) • availability of alternative remedies (-) [540 F2d 533] • past record of school committee resistance (+) [540 F2d 533]
	To protect the safety and rights of black students.	• Transfer of Court-Identified Individuals	• active and positive conduct at odds with order (+) • displacement of decision-making powers (-) [540 F2d 534] • gravity of the situation (+)
		• Evaluation of all faculty	
		• Appointment of court-approved administrative staff (order school committee to appoint receiver recommended persons and terms of appointment)	• board member right to resist, maintain credability (-) • federal-local comity (-) [548 F2d 30] • separation of power (-) • ability to enforcement of court(+) - compliance with state procedures (+) [548 F2d 32]

District: BOSTON

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
			- gravity of the situation (+) [548 F2d 31] - previous resistance of board (+) [548 F2d 31] • ability to attract top quality administrators (+) [548 F2d 31] • provide necessary authority (+) [548 F2d 32] • exert credible and effective leadership (+) [548 F2d 31] • provide security from discharge (+) [548 F2d 31]

District: BOSTON

Component	Legal and Standard Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
0 Curriculum	Develop distinctive and attractive programs to attract students.	• Institute Magnet Schools* (D)(M)(C)	
		• Develop New Programs *	
	Instruction must be non-discriminatory and avoid racial stereotyping.	• School-University/Business Pairings* (M)(C)	
		• Teacher-Administrative Planning Teams *	
	Improve and equalize learning outcomes.	• Bilingual Programs *	

District: BOSTON

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
4.0 Co and Extra Curricular	All extra-curricular activities and athletic programs shall be available and conducted on a desegregated basis. [401 FS 251]	• No strategies advanced initially	

District: BOSTON

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
5.0 Facilities and Equipment	"[M]ake up for deficiencies in normal maintenance and equipment that resulted during period of tension and disruption." [540 F2d 535]	• Basic Repairs† - to toilet stalls, water bubblers, window shades • Minor Improvements† (painting) • Purchase of Certain Sports Equipment†	• nature/necessity of improvement (+) • involvement of school authorities in renovation process (+) [548 F2d 29] • effects on morale/absenteeism (+) [540 F2d 535] • availability of alternative procedures (-) [540 F2d 535]

District: BOSTON

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (H) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
7.0 Community Preparation and Involvement 7.1 Information	To facilitate parents and student awareness of availability of various city-wide educational programs and options.	• Orientation and Applications Booklet* (various languages) • Information and Guidance Centers* • Orientation and Student Recruitment Programs* (for examination schools)	

District : BOSTON

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
7.0 Community Preparation and Involvement 7.2 Involvement Mechanism	To actively involve community in sharing of information, providing advice, assisting in addressing racial problems, and monitoring plan implementation.	• City-wide Coordinating Council[5] (40 member Court appointed) - conduct hearings - hold public meetings - make inspections - prepare written reports • District (regional) Advisory Council[5] (20 members, elected parents and students, appointed others) • Building Racial Ethnic Parent Councils (RPC)[4] • Building Racial Ethnic Student Councils (RSC)[4] • City-wide Parent Advisory Committee (CPAC)[5] • School Volunteers[5] (to watch for racial tension) • School-University/Business/Labor Pairing[4]	

District: BOSTON

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (N) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
9 Staff Preparation and Training		• Staff Training in Human Relations (alluded to only)	

District: BOSTON

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
9.0 Administration and Governance	To avoid inefficiencies and failures of responsiveness [401 FS 230], and to ensure plan is carried out effectively [401 FS 230-234]. To prevent schools from lagging behind and see that curricula & programs of instruction are not discriminatory.	• create 8 community school districts* • require appointment of a Community Superintendent or chief school officer for each Community District* [401 FS 216,250] • require each school to be administered by a person of the rank of principal or head master* [401 FS 216,250] • require administrative cabinet (to be known as Council of Principals)* [401 FS 250] • require the maintenance of a District office accessible and usable by residents for desegregation related purposes* [401 FS 250]	

District: BOSTON

Component	Legal Standard and Goal/ Rationale	Specific Strategy(ies) Advanced [by (P) (D) (M) (C) (O)] and/or Adopted*	Court Considerations in Accepting or Rejecting Particular Strategy
11.0 Monitoring	To facilitate or assist in the monitoring of plan implementation.	• Annual Reports to Court [4] • City-wide Coordination Council [4] • District Advisory Council [4] • Racial Ethnic Parent Advisory Committees [4] • Court Visitations [4]	